

DEPARTMENT OF STATE REVENUE

Revenue Ruling # 99-08 ST

July 14, 1999

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

Sales/Use Tax – Lease of Photocopiers

Authority: IC 6-2.5-2-1, IC 6-2.5-3-4, IC 6-2.5-4-1, IC 6-2.5-4-10, IC 6-2.5-5-3, IC 6-2.5-5-6

The taxpayer requests the Department to rule on whether the lease of a photocopier that is provided to customers for self-service use constitutes equipment exempt from sales and use taxes.

STATEMENT OF FACTS

The taxpayer entered into a "true lease" agreement for black and white/color copiers from vendors. The copiers has the following capabilities: color or black and white posters, reverse imaging, color conversions, deletion of information, photo retouching and offers sizes available from postcard to 11 X 17.

The copier will be installed in the taxpayer's business. Installation will be behind the taxpayer's camera/photo counter and only accessible by employees. Taxpayer's employees will accept customers' orders and then process the orders of making the copies. Once the orders have been completed, the sales will be registered at the camera/photo cash registers.

DISCUSSION

Indiana imposes a state gross retail tax on retail transactions made in Indiana. IC 6-2.5-2-1(a). A person is a retail merchant making a retail transaction when he rents or leases tangible personal property to another. IC 6-2.5-4-10. However, IC 6-2.5-5-3(b) provides that: Transactions involving machinery, tools, and equipment are exempt from the state gross retail tax if the person acquiring that property acquires it for his direct use in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property. IC 6-2.5-5-3(b). Manufacturing machinery, tools, and equipment that are exempt from sales tax are also

exempt from use tax. IC 6-2.5-3-4. Thus, the dispositive issue is whether the taxpayer is using the property for the purpose of manufacturing.

In the situation at bar, the taxpayer is acquiring the copiers for direct use in manufacturing copies. The taxpayer is a business in which its employees accept orders from the customers and then process the copy job for the customers. This is not a self-serve copy facility where the customers process their own copies. Thus, the taxpayer is using the copiers for direct use in the direct manufacture of copies and is eligible for exemption of sales/use tax.

Also, tangible personal property that is incorporated as a material component of other tangible personal property that the purchaser uses in manufacturing, assembling, refining or processing is exempt of sales/use tax. IC 6-2.5-5-6. Taxpayer acquires supplies, such as paper and toner, which are material parts of the manufacturing of completed copies. As such, the supplies are exempt of sales/use tax.

It should also be noted that pursuant to IC 6-2.5-4-1 and IC 6-2.5-2-1, the taxpayer is required to collect sales/use tax from its customers on the sales of photocopies.

RULING

The Department rules that the leased copier machines are exempt from sales/use tax. The supplies, such as paper and toner, used to process the completed copies are also exempt of sales/use tax. Further, taxpayer will be required to collect sales/use tax from its customers for the purchase of any copies.

CAVEAT

This Ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances, as stated herein, are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling, a change in a statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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